

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: Vargas, et al. Analyst: Brian Werking Bill Number: SB 583  
Related Bills: See Legislative History Telephone: 845-5103 Introduced Date: February 17, 2011  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** ALS/Lou Gehrig's Disease Research Fund/Extend Repeal Date to January 2016 & Reduce Minimum Contribution Amount to \$200,000

**SUMMARY**

This bill would re-establish the Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease Research Fund on the personal income tax return as a voluntary contribution fund designation.

**RECOMMENDATION AND SUPPORTING ARGUMENTS**

No position.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of this bill is to create an opportunity to generate research dollars in the hopes of changing the prospects of those diagnosed with ALS.

**EFFECTIVE/OPERATIVE DATE**

This bill would be effective January 1, 2012, and operative as of that date. The fund could first re-appear on the 2011 personal income tax return filed on or after January 1, 2012.

**ANALYSIS****FEDERAL/STATE LAW**

Current federal tax law provides a check-off to direct \$3 of a taxpayer's tax liability to the Presidential Campaign Fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to any of the 15 voluntary contribution funds (VCFs) listed on the 2010 state personal income tax return (return).

Board Position:

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Executive Officer

Date

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With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount required for the VCF to remain on the return for the following calendar year, and
2. Whether estimated contributions to the VCF will be less than the minimum contribution amount for that calendar year.

If the FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations<sup>1</sup> that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in order of the date of enactment.

### THIS BILL

This bill would re-establish the ALS/Lou Gehrig's Disease Research Fund by deleting the existing inoperative language and enacting new language. This bill would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial personal income tax return for the taxable year and, once made, are irrevocable.

This bill would require the FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year that another voluntary contribution fund is removed. This designation could be added to the 2011 tax return filed on or after January 1, 2012.

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<sup>1</sup> A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

For the third calendar year the fund is on the return, this bill would require the fund to meet the \$200,000 minimum contribution test. The FTB is required to estimate by September 1 of each calendar year after the first taxable year the fund appears on tax returns that contributions made under this bill will meet the minimum contribution amount (as indexed for inflation). The law authorizing designations for this fund would be repealed if contributions made under this bill are estimated to be less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for five years and would be repealed as of January 1, 2016, unless repealed earlier due to failure to satisfy the minimum contribution amount, as described above.

Beginning with the third calendar year after the fund appears on the personal income tax return, the FTB would adjust the minimum contribution amount for the fund by September 1 of that year. The minimum contribution amount would adjust according to the California Consumer Price Index (also known as the CCPI).

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the State Department of Public Health for allocation to the Amyotrophic Lateral Sclerosis Association to provide research grants for clinical trials and to develop and advance the understanding, techniques, and modalities effective in prevention, cure, screening, and treatment of ALS.

This bill would allow the taxpayer to take an itemized deduction on their federal and state income tax returns for the year in which the voluntary contribution is made.

#### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs or operations.

#### **LEGISLATIVE HISTORY**

SB 1502 (Steinberg, Stats. 2008, Ch. 354) added the Amyotrophic Lateral Sclerosis/Lou Gehrig's Disease Research Fund to the personal income tax return as a voluntary contribution fund with a January 1, 2013, sunset date and a \$250,000 minimum contribution amount.

#### **PROGRAM BACKGROUND**

The ALS Fund first appeared on the 2008 income tax return and last appeared on the 2009 income tax return because the FTB estimated that the fund would not meet the required \$250,000 minimum contribution amount for the 2010 calendar year. By operation of law, the provision creating the fund was repealed effective January 1, 2010, and the fund was not included on the 2010 income tax return.

The annual contribution amount for calendar year 2009 was \$220,041 and for calendar year 2010 was \$114,051.

## OTHER STATES' INFORMATION

The states surveyed include: *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Illinois* allows taxpayers to designate personal funds to the Alzheimer's Disease Research Fund; the Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund; and the Diabetes Research Fund.

*Massachusetts* allows taxpayers to designate personal funds to the Massachusetts AIDS Fund.

*Michigan* allows for taxpayer contribution designations on the personal income tax return; however, it does not provide a voluntary contribution comparable to the one discussed in this bill.

*Minnesota* allows for taxpayer contribution designations on the personal income tax return; however, it does not provide a voluntary contribution comparable to the one discussed in this bill.

*New York* allows taxpayers to designate personal funds to the Breast Cancer Research and Education Fund; the Prostate Cancer Research, Detection, and Education Fund; and the Alzheimer's Disease Fund.

## FISCAL IMPACT

This bill could require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update without significant cost to the department.

## ECONOMIC IMPACT

### Revenue Estimate

Estimated Revenue Impact of SB 583 For Contributions Made On or After January 1, 2012 Enactment Assumed After June 30, 2011		
2011-12	2012-13	2013-14
No Impact	-\$20,000	-\$20,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

## **POLICY CONCERNS**

This bill sets the initial minimum contribution amount for the fund at \$200,000 for the third calendar year the fund appears on the tax return. Generally, each VCF in its second year on the tax return must meet an initial minimum contribution amount of \$250,000. Delaying the imposition of a minimum contribution amount and reducing that amount from \$250,000 to \$200,000 causes inequity between this fund and other recently-enacted funds.

## **SUPPORT/OPPOSITION**

Support: The Pacific ALS Consortium, The California ALS Advocacy Committee (CAAC), The ALS Association, Golden West Chapter, The ALS Association, Greater Sacramento Chapter, The ALS Association, Greater San Diego Chapter, The ALS Association, Orange County Chapter.

Opposition: None provided.

## **ARGUMENTS**

Pro: ALS is a degenerative disease of the motor nerves that causes progressive weakness of all voluntary muscles. ALS is a fatal disease. There is no cure and only one drug therapy, which allows the patient a month or two more of life. This bill would create an opportunity to generate research dollars in the hopes of changing the prospects of those diagnosed with ALS.

Con: There are currently 14 other voluntary contribution funds that appear on the personal income tax return. Some taxpayers may argue that the consistent addition of new funds on the tax return makes the return a cumbersome document, and changes the primary purpose of the tax return from reporting taxes to making charitable contributions. Taxpayers who are inclined to contribute to this cause can do so through other voluntary methods.

## **LEGISLATIVE STAFF CONTACT**

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